

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference CI0126PCT | FOR FURTHER ACTION | | See Form PCT/IPEA/416 |
| International application No. PCT/EP2004/010143 | International filing date (day/month/year) 10.09.2004 | Priority date (day/month/year) 12.09.2003 | |
| International Patent Classification (IPC) or national classification and IPC B65B51/26, B65B9/20 | | | |
| Applicant CFS WEERT B.V. | | | |

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☒ sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:
 - ☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☒ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

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| Date of submission of the demand 11.01.2005 | Date of completion of this report 03.01.2006 |
| Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016 | Authorized Officer Grentzius, W Telephone No. +31 70 340-3728  |

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/010143

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-10 as originally filed

Claims, Numbers

1-10 filed with telefax on 22.07.2005

Drawings, Sheets

1/3-3/3 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☒ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☒ the claims, Nos. 11
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☒ the claims, Nos. 1,9
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/010143

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 10 |
| | No: Claims | 1-9 |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | 1-10 |
| Industrial applicability (IA) | Yes: Claims | 1-10 |
| | No: Claims | |

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item I

Basis of the report

The definition in claims 1 and 9 of the first and the second part being connected to an actuator includes the possibility of each part having a separate actuator. According to the claims as originally filed, however, the actuator defined was a common actuator for both parts. The subject matter of those claims has therefore been extended. The present claims 1 and 9 have been examined as if they read: " ... to a common actuator ...".

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: EP-A-1 167 192 (MEGA PACKAGING AG O) 2 January 2002 (2002-01-02)
- D2: EP-A-1 106 508 (ROVEMA GMBH) 13 June 2001 (2001-06-13)
- D3: US-A-3 091 902 (FRITZ REINHARDT ET AL) 4 June 1963 (1963-06-04)

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1 and 9 is not new in the sense of Article 33(2) PCT.
 - 1.1 The document D1 discloses a packaging machine and method having all the features of claims 1 and 9. In particular, the machine of D1 has special sealing means comprising a first part (6) and a second part (12), wherein the first and second parts are connected to a common actuator by a coupling means. In this respect it should be noted that a coupling means in its broadest meaning is just something that connects two machine parts. Taking into consideration that D1 discloses that the location of the first and second sealing means can easily be adapted to the dimensions of the filling tube (par. [0021]), this implies that there are some kind of coupling means to adjustably mount the sealing means of D1 to the actuating means.

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- 1.2 Furthermore, the use of coupling means as such does not appear to provide any surprising technical effect. In order to achieve the effect of an accurate application of the two seals and of an equal sealing pressure, the coupling means must be elastic. However, even when claims 1 and 9 would have defined the coupling means as elastic coupling means, such claims would not have met the requirements of inventive step. It would have been obvious to the skilled man to mount the sealing means of the machine of D1 by elastic coupling means in view of D3, where for the same purpose first and second sealing parts (21, 22) are connected to a common actuator (112, 113) by elastic coupling means (see col. 3, l. 69-72 and Fig. 5).
2. Dependent claims 2-8 and 10 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see documents D1 and D2 and the corresponding passages cited in the search report.